S.B.Civil Writ Petition NO.354.2005

Mana @ Shyam Sunder

vs

Harpal Kuar & Ors.

DATE OF ORDER : - 14.2.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. G.J.Gupta, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 17th April, 2004 by which the Addl. District Judge, Sri Karanpur in the Motor Accident Claims Petition permitted the amendment and also permitted petitioner to be impleaded as party in the claim petition.

According to learned counsel for the petitioner in view of the facts already pleaded in the claim petition, the petitioner could not have been impleaded as party, but the Motor Accident Claims Tribunal allowed the application for amendment of the claim petition as well as allowed the application filed under Order 1 Rule 10 CPC impleading the petitioner as party. According to learned counsel for the petitioner it

will change the entire claim petition and, therefore, such type of amendment and consequently, permitting impleading a party is not permissible. Learned counsel for the petitioner relied upon the judgment of the Punjab and Haryana High Court delivered in the case of Rachhpal Singh Vs. Union of India & Ors reported in 1994 ACJ 666 wherein the claimants had clearly mentioned in their claim applications that driver was driving the bus at a normal speed and mishap took place on account of negligence of train driver who did not blow the whistle before crossing the unmanned level crossing. The claimants sought amendment of the claim petition after 5 years to plead that the bus driver was also negligent. That claim was not allowed.

I considered the submissions of learned counsel for the petitioner. It appears from the facts pleaded in this case that name of the petitioner was already in the claim petition, but the facts, which came to the knowledge of the claimants, he pleaded the facts in the claim petition and after getting knowledge from the reply filed by the non-claimants, he corrected his pleading and by this amendment, he is not changing the claim. He presumed that because of the facts, which came to the notice of the claimant, the claimant is entitled to claim compensation against the petitioner also.

In view of the above and in view of the fact that there is no

limitation for filing the claim petition against the persons, therefore, I do not find any merit in the writ petition and the judgment relied upon by learned counsel for the petitioner has no application to the facts of this case.

Hence, the writ petition of the petitioner is dismissed.

(Prakash Tatia), J.

c.p.goyal/-